

REMARKS

Claims 1-15 have been examined. Claims 1-15 have been amended. Claims 1-15 are all the claims pending in the application.

Formal matters

Applicant thanks the Examiner for accepting the drawings as filed on December 27, 2001.

The Examiner objected to the specification. Applicant has amended the specification as suggested by the Examiner. Therefore, Applicant respectfully requests the Examiner to remove the objection.

Claim amendments

Claims 1-15 have been amended in order to better comply with U.S. Patent claiming practice, and not for any reason related to substantive patentability. Therefore, Applicant respectfully requests the Examiner to enter the amendments into the record.

Claim objections

Claims 7 and 14 stand objected to because of alleged informalities with respect to wording. The Examiner maintains that the pre-assigned priority disclosed in the specification and claims 7 and 14 should be “type of service” not “type of sender”, and requests correction. While this may well indeed be the case, Applicant notes that “type of service” is not present anywhere else in the specification or claims. As such, Applicant believes changing “type of

sender” to “type of service” would result in impermissible addition of new matter to the application under 35 U.S.C. § 132. Therefore, Applicant respectfully abstains from making the requested change.

Claim rejections -- 35 U.S.C. § 112

Claims 2 and 9 stand rejected under 35 U.S.C. § 112, second paragraph, as allegedly being indefinite for failing to particular point out and distinctly claim the invention. Specifically, the Examiner asserts that the traffic reservation parameter in claim 2 contradicts the preamble of claim 1 because each pre-assigned priority (green and yellow) has its own bucket, and each bucket has one threshold and the term said traffic reservation parameter in claim 2 allegedly implies at least another threshold in the same bucket.

First, Applicant respectfully notes that the term “bucket” does not appear in claims 1 or 2. Therefore, to the extent that the Examiner reads “bucket” into claim 1, the Examiner is impermissibly importing limitations into the claim. The bucket concept is only an exemplary embodiment of the present invention. Second, in addition to the packet loss priority, the at least one additional pre-assigned priority may be, for example, a packet traffic category (e.g. UDP-packets vs. TCP-packets or real-time packets vs. non real time packets, etc.) or a type of sender. Based on these pre-assigned priorities, it is additionally possible to differentiate the marking of the packets. See, e.g. page 7 of the specification. Therefore, Applicant respectfully requests the Examiner to withdraw the rejection.

Claim rejections -- 35 U.S.C. § 103

Claims 1, 3, 5-8, 10, and 12-15 stand rejected under 35 U.S.C. § 103(a) as allegedly being unpatentable over U.S. Patent No. 6,147,970 to Troxel in view of U.S. Patent No. 6,748,435 to Wang. Applicant respectfully traverses this rejection.

For example, claim 1 recites the feature of:

determining said packet marking of each of said packets based on said actual value of said traffic reservation parameter when said actual value of said traffic reservation parameter exceeds said threshold value for said traffic reservation parameter.

The Examiner maintains that this feature is taught by Troxel at col. 17, lines 22-26.

However, Applicant disagrees with the Examiner's position.

At col. 17, lines 22-26, Troxel describes that a priority upgrade outlet 71 allows for situations where, if a node has extra unused capacity 74, packets which come in non-conforming may be upgraded to conforming. Thus, Troxel only upgrades non-conforming packets. In other words, Troxel is operating in a color-aware mode. By contrast, claim 1 sets forth that *each* packet is marked. In other words, claim 1 operates in a color-blind mode. Wang also fails to teach this feature. As discussed at page 9 of the December 19, 2005 Amendment, Wang promotes or demotes packets randomly, and thus does not teach marking *each* packet. For this reason, claim 1 is patentable over the Troxel and Wang combination.

Claim 8 recites similar features to those of claim 1. Therefore, claim 8 is this patentable over the Troxel and Wang combination for the same reason discussed above.

The remaining claims are patentable based on their dependencies.

Claims 4 and 11 stand rejected under 35 U.S.C. § 103(a) as allegedly being unpatentable over Troxel in view of Wang in view of U.S. Patent No. 5,367, 523 to Chang. Claims 4 and 11 depend from claims 1 and 8, which have been shown above to be patentable over the Troxel and Wang combination. Chang does not cure the deficiencies of the Troxel and Wang combination. Therefore, claims 4 and 11 are patentable over the Troxel, Wang, and Chang combination. Applicant thus respectfully requests the Examiner to withdraw the rejections based on 35 U.S.C. § 103.

Conclusion

In view of the above, reconsideration and allowance of this application are now believed to be in order, and such actions are hereby solicited. If any points remain in issue which the Examiner feels may be best resolved through a personal or telephone interview, the Examiner is kindly requested to contact the undersigned at the telephone number listed below.

Amendment Under 37 C.F.R. § 1.111
U.S. Appln No. 10/026,690

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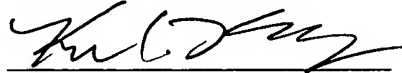
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Respectfully submitted,



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